

*Carbon Oil Chemical*

*file*

RCRA

UNIVERSITY MICROFILMS

CASE IN PROGRESS

(Please PRINT)

*NYD980762785*

CASE NUMBER 1-0676

PROGRAM Water 1 2

CASE NAME:

LEGAL CITATION 17-501, 17-505, 27-0913, 17-082

T H E R M - X C H E M I C A L & O I L C O R P

*check also Gibson Oil*

ADDRESS:

7 4 M A L L D R I V E

CITY:

ZIP:

C O M M A C K

11725

COUNTY: Suffolk

SWIS CODE

DATE CASE INITIATED: 2 26 80  
MO DAY YEAR

REFERRED BY: A. Yerman

DESCRIPTION OF CASE:

ENDORSED BY: A. Machlin

Substantial spillage of petroleum products  
on to the surface of ground and storage of  
hazardous wastes without a permit.

OTHER COMMENTS:

*2/7/92  
there is nothing*

~~NSP 859520~~

NYD980528616 (NON  
NYD980762785 (NOTICE)

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-----  
In the Matter of the Alleged Violation  
of Articles 17 & 27 of the Environmental  
Conservation Law of the State of New York,  
by

COPY OF  
STIPULATION

File No:1-067

THERM-X CHEMICAL AND OIL CORPORATION

(Suffolk County)

Respondent.

RECEIVED

JUN 12 1984

JOAN SCHERB

June 1, 1984

12:10 p.m.

Stony Brook, New York

-----  
STIPULATION SETTLEMENT taken pursuant  
to Notice, held at the New York State Department  
of Environmental Conservation, Building 40,  
S.U.N.Y., Stony Brook, New York, on the 1st  
day of June, 1984, before Mark Piotrowski,  
a Shorthand Reporter and Notary Public within  
and for the State of New York.

(516) 751-1412



ACE REPORTING SERVICE  
*All Phases of Verbatim Reporting*

16 OLYMPIA LANE  
STONY BROOK, NEW YORK 11790

1       A P P E A R A N C E S:

2           A. MARSHALL IRVING, P.E., M.S., Administrative Law Judge  
Hearing Officer

3               New York State Department of Environmental  
Conservation

4               Building 40, S.U.N.Y.

5               Stony Brook, New York 11794

6           JOAN B. SCHERB, ESQ.

7               Regional Attorney

8               New York State Department of Environmental  
Conservation

9               Building 40, S.U.N.Y.

10              Stony Brook, New York 11794

11           ROBERT DEL GADIO, ESQ.

12              Attorney for Respondent

13              1010 Franklin Avenue

14              Garden City, New York 11530

15                       \*       \*       \*

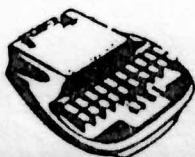
16                   MR. IRVING: Good afternoon, everyone.

17           On behalf of the Honorable Henry G. Williams, Commissioner  
18           of the Department of Environmental Conservation, I do  
19           hereby convene this public hearing in the matter of an  
20           enforcement action brought against THERM-X CHEMICAL  
21           and OIL CORPORATION by Department staff.

22                   My name is A. Marshall Irving. I'm  
23           an administrative law judge so designated by the Commissioner  
24           and assigned to hear this matter.

25                   May I have the appearances for the  
record, please.

              MRS. SCHERB: Joan B. Scherb, Regional  
Attorney, Region One, New York State Department of Environ-



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mental Conservation, representing DEC.

MR. IRVING: For the respondent.

MR. DEL GADIO: Robert Del Gadio, 1010  
Franklin Avenue, Garden City, New York.

MR. IRVING: The Notice of Hearing  
with attached Complaint alleging violations of Articles 17  
and 27 of the Environmental Conservation Law with an  
attached receipt for certified mail and the returned  
green card will be marked and received in evidence as  
Exhibit 1.

(Whereupon, Exhibit 1 was marked  
in evidence by the hearing officer.)

MR. IRVING: The Answer to the Complaint  
filed by Robert Del Gadio on December 20, 1983, will be  
Exhibit 2.

(Whereupon, Exhibit 2 was marked in  
evidence by the hearing officer.)

MR. IRVING: The Notice of Hearing was  
dated the 14th of December, 1983.

Proceed, Mrs. Scherb.

MRS. SCHERB: Your Honor, counsel and  
I have been discussing disposition of this matter and I  
believe that we have achieved a stipulation. I will attempt  
to outline that stipulation on the record; Mr. Del Gadio



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1 will correct me if there are corrections to be made,  
2 and I hope that stipulation will dispose of this matter.  
3 Mr. Del Gadio has also represented to me that he has  
4 full authority to negotiate for the respondent herein.  
5

6 MR. DEL GADIO: That is correct.

7 MRS. SCHERB: We are discussing a  
8 particular property. That property is located at 74  
9 Mall Drive in Commack, New York. The purpose of the  
10 stipulation is to resolve all questions of clean-up with  
11 respect to that site and with respect to the violations  
12 set forth in the Complaint.

13 First, the Department had asked for  
14 a fine based upon alleged violations of Article 17 in  
15 the sum of \$35,000. The Department would be willing to  
16 accept a fine in the sum of \$5,000 with \$30,000 suspended  
17 providing that the respondent strictly adheres to the  
18 provisions of this stipulation.

19 1) The respondent shall pay to the  
20 New York State Department of Environmental Conservation  
21 a fine in the sum of \$5,000.

22 2) The respondent shall permit access  
23 for the purpose of inspection to the employees of the  
24 New York State Department of Environmental Conservation  
25 and their delegate agency, the Suffolk County Department of



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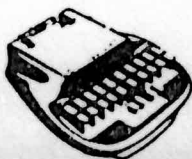
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Health Services during reasonable business hours from approximately 9 a.m. to 5 p.m. Monday through Friday.

3) The respondent within 90 days of this date shall submit an approvable engineering report, and that report shall outline the procedures for clean-up. That is an engineering report which a licensed, New York State professional engineer would believe to be approvable to accomplish a clean-up of the site. The report will include but not be limited to the following: It shall address the number of underground tanks on the site and it shall provide either for the removal of those tanks or the testing of those tanks to insure they are leak-proof by the petro-type method. The report shall also set forth the required monitoring wells and the data and testing with respect to those wells. It shall also provide for an upgrading to meet the terms and conditions of Article 12 of the Suffolk County Sanitary Code of the above-ground tanks on site. Such report shall also address the upgrading of the above-ground tanks to meet the New York State Environmental Conservation Law bulk storage law. The engineering report shall contain a proposed schedule of implementation, and said report, as I have indicated, shall be submitted within 90 days of this date.

4) Thirty days after submission, the

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1 Stipulation Settlement

2 Suffolk County Department of Health Services shall have  
3 reviewed the report and indicated whether the report  
4 is approvable in their opinion and, if not, indicate  
5 deficiencies to be addressed.

6 5) Ninety days after the approval of  
7 the report by the Suffolk County Department of Health  
8 Services and the New York State Department of Environmental  
9 Conservation, the report shall begin its implementation.

10 6) Within 30 days of this stipulation,  
11 the respondent shall remove the storage drums from the  
12 site by a licensed scavenger and shall submit a manifest  
13 to the DEC and the Suffolk County Department of Health  
14 Services.

15 7) Forty-eight hours prior to  
16 removal by the licensed scavenger, the respondent  
17 shall notify the Suffolk County Department of Health  
18 Services.

19 8) Within 30 days of the date of  
20 this stipulation, the respondent shall submit an approvable  
21 engineering report, as previously defined, for the upgrading  
22 of the facilities.

23 9) The clean-up of the site shall be  
24 completed within one year of an approvable engineering  
25 report unless there is a war, civil commotion, flood or



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Stipulation Settlement

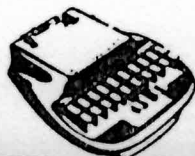
7.

disaster or such other circumstances which are totally beyond the control of the respondent. In such event, the respondent may make application for a reasonable extension to the hearing officer, and a reasonable extension will not be opposed by the Department. Financial arrangements will not be included as a circumstance totally beyond the control of the respondent. If the respondent needs more than five wells, there will be an abatement of the fine.

This stipulation is in total satisfaction of all claims set forth in the Complaint by the New York State Department of Environmental Conservation and the New York State Department of Environmental Conservation with respect to the property and with the Suffolk County Department of Health Services.

The fine in the sum of \$5,000 shall be submitted within 30 days of today's date.

MR. DEL GADIO: It is the intention of the respondent or particularly whatever successor there might be with respect to the property at that time to remove the tanks presently underground located at the premises 74 Mall Drive, Commack, New York, and not necessarily test those tanks by the petro-tite method. This is something that has been discussed prior to the



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1 dictation of the stipulation with representatives of  
2 the State Department of Environmental Conservation and  
3 the Suffolk County Department of Health Services, and  
4 has been agreed to by them as a preferable method of  
5 disposition of this disputing of underlying violations.  
6

7 It is also the intent of the  
8 stipulation to permit the continued use of the premises  
9 for the repackaging of motor oils and automotive  
10 chemicals. However, to do so in full compliance with  
11 Article 12 of the Suffolk County Health Code in order  
12 that the underground tanks will then be replaced by  
13 above-ground tanks and the production facilities and --  
14 lines may be altered and upgraded to accommodate  
15 any allegations of non-compliance with the present state  
16 of the Suffolk County Health Code.

17 MRS. SCHERB: Please state for the  
18 record you are authorized to negotiate the stipulation.

19 MR. DEL GADIO: I am authorized  
20 on behalf of the respondent to negotiate this stipulation,  
21 and I have spoken with Mr. Lee Roth prior to entering  
22 into this stipulation who has authorized me to enter into  
23 a stipulation as abiding herein.

24 MR. IRVING: Anything further to be  
25 put on the record?



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## 1 Stipulation Settlement

2 MRS. SCHERB: No.

3 MR. DEL GADIO: No.

4 MR. IRVING: The hearing is adjourned  
5 subject to the execution of the stipulation and performance  
6 thereunder..

7 (Whereupon, the Stipulation Agreement  
8 was concluded at 12:30 p.m.)

9 \* \* \*

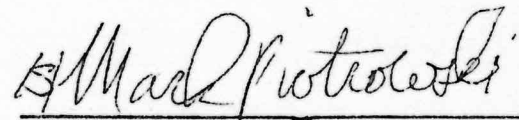
## 10 E X H I B I T S

11 EXHIBIT NUMBER	DESCRIPTION	IN EVIDENCE
12 1	Notice and Complaint	3
13 2	Answer	3

14  
15 CERTIFICATE OF REPORTER

16 I, Mark Piotrowski, do hereby certify that  
17 the Stipulation Settlement was held on June 1,  
18 1984.

19 I hereby certify that the above is a true  
20 and accurate transcript.

21  
22   
23 MARK PIOTROWSKI, Notary Public

24  
25 ACE REPORTING SERVICE

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STONY BROOK, NEW YORK 11790

AMOUNT
--------

TOTAL OF INVOICES	LESS	% DISCOUNT	LESS	TOTAL DEDUCTIONS	AMOUNT OF CHECK

74 MALL DRIVE

COMMACK, NY 11725

6/22 1931

$$\frac{1-32}{280}$$

PAY TO THE ORDER OF *Ill. State Dept. of Environmental Conservation* \$ *5000.00*

DOLLARS



**National  
Westminster  
Bank USA**

Vanderbilt Parkway Offices  
64 Vanderbilt Parkway  
Carmichael, N.Y. 11725

**GIBSON CHEMICAL & OIL CORP.**

五

AUTHORIZED SIGNATURE

11:00:50.116 1:028000325.0 22.7 55 2293.116